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Atty Dkt. No. DIOP-06900

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: LANE et al.

Confirmation No. 6556

Serial No.: 10/607,068

Group Art Unit: 2873

Filed: 06/25/2003

Examiner: MAI, Huy Kim

Title: LIGHT-BLOCKING AIR VENTS FOR EYEWEAR

* * *

RESPONSE TO OFFICE ACTION MAILED ON MAY 14, 2004

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Examiner:

The following is in response to the Official Action mailed on May 14, 2004:

This submission conforms to the revised format as set forth in Changes to Implement Electronic Maintenance of Official Patent Application Records, Federal Register, Volume 68, Number 125, pages 38611-38630, June 30, 2003.

09/08/2004 TSTPTOE 00000001 501610 10607068

01 FC:2201 43.00 DA

06/25/03

17175 U.S. PTO

PTO/SB/17 (01-03)

Approved for use through 04/30/2003. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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FEE TRANSMITTAL
for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 720.00

Complete if Known

Application Number	
Filing Date	06/25/2003
First Named Inventor	Henry Welling Lane
Examiner Name	
Art Unit	
Attorney Docket No.	DIOP-06900

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:

Deposit Account Number	50-1610
Deposit Account Name	Law Offices of Derek J. Westberg

The Commissioner is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) during the pendency of this application☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity	Small Entity	Fee Code	Fee (\$)	Fee Description	Fee Paid
		1001	750	Utility filing fee	375.00
		1002	330	Design filing fee	
		1003	520	Plant filing fee	
		1004	750	Reissue filing fee	
		1005	160	Provisional filing fee	
SUBTOTAL (1)					(\$ 375.00)

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
49	-20** = 29	9.00	261.00
Independent Claims	5	-3** = 2	42.00
Multiple Dependent			

Large Entity		Small Entity		Fee Description
Fee Code (\$)	Fee	Fee Code (\$)	Fee	
1202	18	2202	9	Claims in excess of 20
1201	84	2201	42	Independent claims in excess of 3
1203	280	2203	140	Multiple dependent claim, if not paid
1204	84	2204	42	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)**3. ADDITIONAL FEES**

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	410	2252	205	Extension for reply within second month	
1253	930	2253	465	Extension for reply within third month	
1254	1,450	2254	725	Extension for reply within fourth month	
1255	1,970	2255	985	Extension for reply within fifth month	
1401	320	2401	160	Notice of Appeal	
1402	320	2402	160	Filing a brief in support of an appeal	
1403	280	2403	140	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,300	2453	650	Petition to revive - unintentional	
1501	1,300	2501	650	Utility issue fee (or reissue)	
1502	470	2502	235	Design issue fee	
1503	630	2503	315	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	750	2809	375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810	375	For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801	375	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

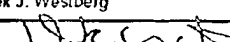
Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 0.00

SUBMITTED BY

(Complete if applicable)

Name (Print/Type)	Derek J. Westberg	Registration No. (Attorney/Agent)	40,872	Telephone	(408)293-9090
Signature		Date	6-25-03		

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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paragraph 24, lines 3-4. The vertical apertures are at angle of 70-90° from the horizontal viewing angle. Matera, paragraph 24, lines 9-11. The horizontal viewing angle is directed along a horizontal line extending from the eye through the lenses and out towards the horizon. Matera, Figure 8. Claim 50 is distinguishable from Matera at least because the angle of the aperture is approximately forty-five degrees, which is substantially less than the angle range of 70-90 degrees disclosed by Matera. For at least this reason, claim 50 is allowable over Matera.

Claim 51 is dependent from claim 50 and recites that the angle is approximately forty-five degrees. Support for this feature can be found on page 4, lines 13-23 and Figure 3 of the applicants' specification. Thus, no new matter has been added. Claim 51 is allowable at least because it is dependent from allowable base claim 50.

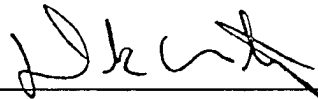
Claims 52-62 are substantially similar to claims 34-44. No new matter has been added. Claims 52-62 are allowable at least because they are dependent from allowable base claim 50.

Claim 61 recites eyewear wherein the width of the aperture is substantially equal to a thickness of the brow web. The applicants submit that that claim 61 is distinguishable from Harris, Hall et al. and Matera since they do not suggest or disclose, separately or in combination, any features pertaining to the width of the apertures in relation to the thickness of a brow web. For at least this reason claim 61 is allowable.

In view of the above, the applicants respectfully submit that all of the pending claims are now allowable. Allowance at an early date would be greatly appreciated. Should any issues remain, the examiner is encouraged to telephone the undersigned at (408) 293-9000 to discuss the same so that any outstanding issues may be expeditiously resolved.

Law Offices of Derek J. Westberg

Dated: August 16, 2004



Derek J. WESTBERG (Reg. No. 40,872)

BEST AVAILABLE COPY

PATENT APPLICATION FEE DETERMINATION RECORD
Effective October 1, 2003

CLAIMS AS FILED - PART I

	(Column 1)	(Column 2)
TOTAL CLAIMS		
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	minus 20=	*
INDEPENDENT CLAIMS	minus 3=	*
MULTIPLE DEPENDENT CLAIM PRESENT <input type="checkbox"/>		

* If the difference in column 1 is less than zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	* 46	Minus ** 49	=
Independent	* 4	Minus *** 3	= 1
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	*	Minus **	=
Independent	*	Minus ***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	*	Minus **	=
Independent	*	Minus ***	=
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
* If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20"
***If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3"
The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

SMALL ENTITY TYPE ☐ OR OTHER THAN SMALL ENTITY

RATE	FEE		RATE	FEE
BASIC FEE	385.00	OR	BASIC FEE	770.00
X\$ 9=		OR	X\$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL		OR	TOTAL	

SMALL ENTITY OR OTHER THAN SMALL ENTITY

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X\$ 9=		OR	X\$18=	
X43=	43	OR	X86=	
+145=		OR	+290=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X\$ 9=		OR	X\$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
X\$ 9=		OR	X\$18=	
X43=		OR	X86=	
+145=		OR	+290=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	